

45

59

BOTTARI

Q. Can you describe him for me?
A. No. I can't describe him.
Q. Was he an older person or
A. I would say 30s, 35 to 45.
Q. Was he tall, short, medium
A. Medium height.
Q. Was he wearing a hat?
A. I don't remember.
Q. Have you ever found out who
A. No.
Q. Did the police officers take
your wallet and your cell phone from you
after you went to the ground?
A. I don't remember.
Q. When you got to the hospital,
for example, did you have your wallet and
your cell phone with you?

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1 before you were taken away by the
2 ambulance?
3 A. No.
4 Q. Were you still wearing
5 handcuffs when you left the scene?
6 A. Yes.
7 Q. Did anybody else come to that
8 scene that night besides yourself, the two
9 police officers and the ambulance
10 personnel?
11 A. There was one other person, a
12 person driving by in a vehicle that
13 stopped, spoke briefly, and then he left.
14 Q. Do you know who that person
15 was?
16 A. No.
17 Q. To whom did he speak, that
18 person?
19 A. The police officers.
20 Q. Do you recall the sum and
21 substance of the conversation?
22 A. No, I don't.
23 Q. Was it your impression that,
24 that person was a police officer?
25

BOTTARI

57

BOTTARI

1 A. No.
2 Q. It was definitely a male?
3 A. Definitely a male.
4 Q. Was it somebody you knew?
5 A. No.
6 Q. Was that person wearing street
7 clothes as opposed to a uniform?
8 A. Street clothes.
9 Q. Do you remember what that
10 person was wearing, the person who came by?
11 A. No. I will say it was not a
12 suit.
13 Q. Was the person who came by
14 white or black or something else?
15 A. He was not black.
16 Q. Was he Asian?
17 A. I don't recall. I don't think
18 so.
19 Q. Was he Hispanic?
20 A. I don't remember what his
21 ethnic background was.
22 Q. Did he have an accent of any
23 kind?
24 A. No.
25

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58

60

BOTTARI

1 A. I don't remember.
2 Q. Was the cell phone still in
3 your hand when you fell to the ground?
4 A. It had to be in my hand.
5 Q. Was your cell phone damaged in
6 any way as a result of this incident?
7 A. It still functioned. I don't
8 recall if it was damaged in any way.
9 Q. Do you still have that cell
10 phone?
11 A. No.
12 Q. Did you still have handcuffs on
13 when you got to the hospital?
14 A. I don't remember.
15 Q. At some point, they were
16 removed, the handcuffs?
17 A. I remember one cuff being
18 removed. The other one -- the cuff that
19 was removed was connected to the bed.
20 Q. In the ambulance?
21 A. In the ambulance I was cuffed.
22 Q. In the hospital one cuff was
23 removed and cuffed to the hospital bed?
24 A. Yes.
25

Yes.

63

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1 BOTTARI
2 Q. Did you speak to any admitting
3 personnel when you first arrived at the
4 hospital?
5 A. Yes.
6 Q. Did you have health insurance
7 at the time?
8 A. Yes.
9 Q. Do you recall who your health
10 insurance carrier was?
11 A. No.
12 Q. Did they inquire of you about
13 your health insurance when you got to the
14 hospital?
15 A. I don't remember.
16 Q. I am trying to get back to your
17 wallet.
18 Did you have your wallet with
19 you when you spoke to the admissions person
20 at the hospital?
21 A. I don't remember when I got my
22 wallet back or my phone, but I remember
23 having it after I left the police station
24 that morning.
25 Q. So at some point before you

61

64

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1 BOTTARI
2 Left the police station you got your wallet
3 and cell phone back, correct?
4 A. Yes.
5 Q. Did you use your cell phone at
6 all that night?
7 A. No.
8 Q. In the hospital, were you seen
9 by a doctor?
10 A. Yes.
11 Q. Did he inquire of you as to
12 what occurred?
13 A. No.
14 Q. Do you know the name of the
15 doctor you saw at the hospital?
16 A. No.
17 Q. What, if any, treatment did you
18 get at the hospital?
19 A. I received four stitches.
20 Did you complain of pain to
21 anyone at the hospital that night?
22 A. I don't remember.
23 Q. Where were the stitches?
24 A. Above my left eye.
25 Q. In addition to the stitches,

62

1 BOTTARI
2 were you treated in any other way at the
3 hospital?
4 A. I don't think so.
5 Q. Did you get any prescriptions
6 while you were in the hospital?
7 A. No.
8 Q. Did you take any medication at
9 the hospital; were you given any medication
10 at the hospital?
11 A. I don't remember.
12 Q. About how long were you at the
13 hospital?
14 A. I think it was between a
15 half-an-hour and an hour.
16 Q. During the time at the
17 hospital, did you tell anyone how you had
18 become injured?
19 A. I don't remember.
20 Q. After you last the hospital,
21 were you taken to the Ardley police
22 station?
23 A. Yes.
24 Q. What type of vehicle
25 transported you to the Ardley police

64

1 BOTTARI
2 station?
3 A. An SUV.
4 Q. Was it a marked police vehicle?
5 A. Yes.
6 Q. Who was driving?
7 A. I am not sure.
8 Q. Was it either Sergeant Fischer
9 or Officer Stephenson?
10 A. It was.
11 Q. Were you still in handcuffs on
12 the ride to the police station?
13 A. Yes.
14 Q. About what time did you get to
15 the police station?
16 A. Like about maybe 1:30, 2:00.
17 Q. What time did you leave the
18 police station that day?
19 A. Like 4:30, 5:00 in the morning.
20 Q. How did you leave?
21 A. I walked.
22 Q. Did you go back and get your
23 car?
24 A. Not at that time.
25 Q. Not that morning?

1 BOTTARI
 2 A. Not at that time.
 3 Q. Where did you walk to after you
 4 left the police station?
 5 A. I walked home.
 6 Q. How far is it from the police
 7 station to your home?
 8 A. About a mile, three-quarters of
 9 a mile.
 10 Q. From the time that you first
 11 pulled into that parking lot until the time
 12 you left the police station, did you talk
 13 to anyone apart from healthcare providers
 14 or police officers either in person or on
 15 the phone?
 16 A. No.
 17 Q. Did you make any phone calls at
 18 all that night to your wife for instance?
 19 A. No.
 20 Q. Did your wife call you on your
 21 cell phone that night?
 22 A. Not that I recall.
 23 Q. What time did you get home that
 24 morning?
 25 A. Between probably five and 5:30.

1 BOTTARI
 2 Q. Prior to leaving the police
 3 station, were you issued any tickets?
 4 A. Yes.
 5 Q. Appearances?
 6 A. Yes.
 7 Q. Were there charges listed on
 8 those documents?
 9 A. Yes.
 10 Q. What were you charged with?
 11 A. Obstruction of governmental
 12 administration.
 13 Q. Anything else?
 14 A. Resisting arrest.
 15 Q. Anything else?
 16 A. And disorderly conduct.
 17 Q. Did you see a judge that night?
 18 A. No.
 19 Q. Was bail set?
 20 A. No.
 21 Q. Did you post any bond at all?
 22 A. No.
 23 Q. Did you ever post bond as a
 24 result of this incident?
 25 A. No.

1 BOTTARI
 2 fingerprinted.
 3 Q. Okay.
 4 A. I must have been printed
 5 because it is a printable arrest.
 6 MR. FLAMM: It's just you don't
 7 remember it?
 8 THE WITNESS: I don't remember.
 9 I was in the cell. They might have
 10 taken a picture of me. I don't
 11 recall.
 12 Q. How long were you in the cell
 13 for?
 14 A. A couple of hours.
 15 Q. Did you hear any police
 16 officers speaking while you were in the
 17 cell?
 18 A. No.
 19 Q. Did any police officers come
 20 and speak to you while you were in the
 21 cell?
 22 A. At some point I spoke with
 23 Officer Stephenson.
 24 Q. While you were in the cell?
 25 A. While I was at the police

1 BOTTARI
2 Q. Did there come a time when you
3 did get your car back?
4 A. Yes.
5 Q. Where was it when you went and
6 got it?
7 A. GM Piccolo Auto Body in between
8 Dobbs Ferry and Ardsley.
9 Q. Did you have to pay to get your
10 car back?
11 A. Yes.
12 Q. How much?
13 A. I don't remember.
14 Q. When did you pickup the car?
15 A. That day.
16 Q. When you arrived home, was your
17 wife home?
18 A. Yes.
19 Q. Did you speak with her when you
20 first got home?
21 A. I did.
22 Q. Did she inquire of you as to
23 what occurred?
24 A. She did.
25 Q. Did you tell her?

71

1 BOTTARI
2 station.
3 Q. Was that at his desk, at a
4 desk?
5 A. No, I never sat at a desk.
6 Q. Where were you while you were
7 speaking to Officer Stephenson?
8 A. Near the cell or in the cell.
9 Q. Can you tell me the sum and
10 substance of the conversation you had with
11 Officer Stephenson while you were at the
12 police station that night?
13 A. I remember being given the
14 tickets.
15 Q. Did you comment on the tickets
16 when you received them?
17 A. No.
18 Q. Was anything said to you when
19 you were handed the tickets?
20 A. No.
21 Q. Do you recall the sum and
22 substance of any conversation you had with
23 any police officer while you were at the
24 police department that morning?
25 A. No, I don't recall the sum and

69

1 BOTTARI
2 A. Yes.
3 Q. Do you remember what you told
4 her?
5 A. I said -- she asked me, "what
6 happened to your eye?" I said, "I got beat
7 up by the cops last night." Then she asked
8 me, "what happened?"
9 Q. Did you tell her?
10 A. Yes.
11 Q. Do you recall specifically what
12 you told her?
13 A. No.
14 Q. Was she curious as to why you
15 were coming home so late?
16 A. She was sleeping when I got
17 home.
18 Q. Were the kids home too?
19 A. Yes.
20 Q. Still in bed?
21 A. Yes.
22 Q. Did you go to work that day?
23 A. I went to my office.
24 Q. Did you have anything on that
25 day that you had to cover?

72

1 BOTTARI
2 substance of any conversation.
3 Q. There was some conversation?
4 A. I don't recall. I don't recall
5 a conversation.
6 Q. Well, call it what you will.
7 Someone spoke and you heard them speak?
8 A. They didn't speak to me. Once
9 they found out I was an attorney, they
10 limited the communication between me and
11 them as much as possible. That is what I
12 recall. Other than that, I don't recall
13 the sum and substance of any conversation.
14 Q. Did someone come to you and
15 tell you that you are now free to go?
16 A. They didn't say you are free to
17 go.
18 Q. What did he say?
19 A. Officer Stephenson came and
20 gave me three tickets and he informed me of
21 a date to come back to court.
22 Q. How far is the police station
23 from the CVS store?
24 A. Quarter of a mile,
25 approximately.

70

1 BOTTARI
2 A. We are friendly.
3 Q. Did you pay Mr. D'Agostino for
4 the services rendered to you in this
5 matter?
6 A. Not yet.
7 Q. Has he given you a bill?
8 A. He has.
9 Q. How much?
10 A. Approximately \$20,000.
11 Q. Since the incident occurred,
12 have you spoken to anyone about what
13 happened apart from your attorney and your
14 wife?
15 A. Not that I can remember.
16 Q. Do you know of any media
17 coverage this incident got; was it in the
18 newspaper?
19 A. It was.
20 Q. What newspaper was it in?
21 A. The Enterprise.
22 Q. Is that a local newspaper?
23 A. It is.
24 Q. How often does it get
25 published?

1 BOTTARI
2 A. No, I didn't.
3 Q. Have you sought any further
4 medical treatment for the injuries that you
5 sustained in this incident apart from those
6 you saw in the emergency room?
7 A. No not professional medical
8 treatment.
9 Q. What treatment?
10 A. I had bruises and scrapes on my
11 leg, but I treated them myself.
12 Q. What did you do?
13 A. Bactracin.
14 Q. Do you have any scars as a
15 result of this incident?
16 A. Above my eye.
17 Q. Left eye?
18 A. Yes. I don't know about the
19 scrapes on my legs though.
20 Q. Who took the stitches out?
21 A. My wife.
22 Q. What does your wife do for a
23 living, if anything?
24 A. She is in sales.
25 Q. Who does she work for?

1 BOTTARI
2 A. Weekly.
3 Q. On how many occasions did you
4 see it in The Enterprise?
5 A. There was one article. How
6 many times I have seen that article,
7 several.
8 Q. They keep publishing the same
9 article?
10 A. No. I keep reading it.
11 Q. What is it that makes you keep
12 reading it?
13 A. I just read it a couple of
14 times. That's all.
15 Q. You kept a copy?
16 A. Yes.
17 Q. Is your name in the article?
18 A. It is.
19 Q. Can you tell me generally what
20 is the substance of that article?
21 A. Thirty-eight-year-old man
22 arrested in Ardsley about 3:00, 4:00 in the
23 morning for, and then the list of charges.
24 Q. Are there any details of the
25 incident in that article?

1 BOTTARI
2 A. MetLife.
3 Q. Out of which office?
4 A. Elmsford.
5 Q. How long did you have the
6 stitches in?
7 A. Like a week, approximately.
8 Q. As a result of the tickets you
9 received, were you required to go to court?
10 A. Yes.
11 Q. How many times did you go to
12 court?
13 A. Approximately five, six times.
14 Q. Did you retain the services of
15 an attorney?
16 A. Yes.
17 Q. Who was that?
18 A. Rocco, D'Agostino.
19 MR. WALSH:
20 D-A-G-O-S-T-I-N-O, Rocco,
21 R-O-C-C-O.
22 Q. Who referred you to Mr.
23 D'Agostino?
24 A. I have known him for awhile.
25 Q. Personal friend?

1 BOTTARI
2 the newspaper and he asked me about it. He
3 said his friend told him. I said, "I can't
4 really talk to you about it" and we talked
5 about other things.
6 Q. Did any client come to you and
7 say they are not going to be your client
8 anymore as a result of this incident?
9 A. No.
10 Q. Do you believe you lost any
11 clients as a result of this incident?
12 A. I do.
13 Q. Okay.
14 How do you come to that
15 conclusion?
16 A. Well, Charles Strick and Mr.
17 Clear are very active in the community.
18 They speak with a lot of different people.
19 I am not sure, but it is very possible that
20 they mentioned the incident and with that,
21 people, I assume, have a negative outlook
22 on an attorney that is arrested for various
23 things. Can I put a quantifiable number,
24 no, I can't.
25 Q. Can you name one?

79

1 BOTTARI
2 A. No.
3 Q. Has anybody ever told you they
4 saw that article?
5 A. Yes.
6 Q. How many people?
7 A. It's been mentioned to me about
8 five times.
9 Q. Do you recall anybody who
10 mentioned it to you?
11 A. Yes.
12 Q. Whom?
13 A. Kevin Moriarty.
14 M-O-R-I-A-R-T-Y.
15 Q. Is he an attorney?
16 A. No, he is not.
17 Q. Is he a friend?
18 A. Yes.
19 Q. Where does he reside?
20 A. Tarrytown, New York.
21 Q. I get the impression that
22 somehow your reputation with Mr. Moriarty
23 has gone down as a result of this incident?
24 A. It might have.
25 Q. How long have you known Kevin

77

1 BOTTARI
2 A. One what?
3 Q. Person who did not come to you
4 as a client as a result of this incident?
5 A. No.
6 Q. Have you spoken to -- is it Mr.
7 Clear and Dr. Strick or Dr. Clear and Mr.
8 Strick?
9 A. Mr. Clear and Dr. Strick.
10 Q. Have you spoken to either one
11 of them about this incident?
12 A. No.
13 Q. Are you on the 18B panel?
14 A. Yes, I am.
15 Q. Have you continued to get 18B
16 work since the incident?
17 A. In white plains I have, yes.
18 Q. Did you stop getting 18B work
19 from any other court following the
20 incident?
21 A. I intended to go to Ardsley and
22 I didn't because of this incident.
23 Q. I don't know how one applies
24 for the 18B panel. Do you go to the court
25 itself and advise them you are available?

80

1 BOTTARI
2 Moriarty?
3 A. Couple of years. What it was
4 he got a call from somebody who also got a
5 call so several people were speaking about
6 it.
7 Q. Do you know the names of
8 anybody else who was speaking about it?
9 A. I don't remember. It was
10 mentioned to me.
11 Q. Do you know any other names
12 besides Kevin Moriarty?
13 A. No. I remember him
14 specifically because he got in an in-depth
15 conversation with me.
16 Q. Where were the two of you when
17 you spoke about the incident?
18 A. He called me up on the phone.
19 I didn't really -- we converse about a lot
20 of different issues.
21 Q. Is he a client?
22 A. He has been a client.
23 Q. What was the substance of your
24 conversation with Mr. Moriarty?
25 A. He told me he heard I was in

78

1 BOTTARI
2 A. Yes.
3 Q. Do you know who that person
4 was?
5 A. That was me.
6 Q. Showing you Defendants' A for
7 identification for today's date. Are those
8 four of the various photographs you may
9 have taken at the scene?
10 A. Yes.
11 Q. When did you take those
12 photographs?
13 A. Couple of days later after the
14 incident.
15 Q. Was anybody with you when you
16 took the pictures?
17 A. I think my wife was with me.
18 Q. How many pictures did you take
19 the scene?
20 A. I don't remember.
21 Q. Was it more than six?
22 A. I don't remember how many
23 photos I took.
24 Q. In addition, did someone take
25 photos of your injuries?

83

1 BOTTARI
2 A. Yes.
3 Q. It was your intention at some
4 point to go to the Ardsley Court and ask if
5 you can be on the 18B panel?
6 A. Well, the 18B is broken into
7 different districts. I am in a district
8 that includes Ardsley, so I intended to go
9 to Ardsley to pickup cases.
10 Q. So you are admitted in the 18B
11 Ardsley district; is that right?
12 A. Yes.
13 Q. You could go to the Ardsley
14 court at some point now and apply for cases
15 if you chose to?
16 A. Yes. Whether or not the judge
17 will assign me a case is a different issue?
18 Q. We don't know whether or not he
19 would as we sit here today?
20 A. No.
21 Q. I am mean, has your income gone
22 down as a result of this incident?
23 A. I can't say that it went down.
24 Q. Was your income lower or higher
25 in 2005 than it had been in 2004?

81

1 BOTTARI
2 A. Yes.
3 Q. Who took the photos of your
4 injuries?
5 A. My wife.
6 Q. When were the photos of your
7 injuries taken?
8 A. After the incident. I am just
9 trying to think.
10 MR. FLANN: Did she take the
11 photos before or after those photos
12 in Defendant's A were taken?
13 THE WITNESS: It may have been
14 after it.
15 Q. It was within a few days of the
16 incident?
17 A. Yes.
18 Q. Is there anything of relevance
19 shown in those photographs?
20 A. The spots of blood.
21 Q. The dark spots that we see near
22 the tire of the vehicle are blood?
23 A. Yes.
24 Q. You believe that to be your
25 blood?

84

1 BOTTARI
2 A. It would be higher. The
3 question that arose for me is how much
4 higher it would have been had I not been
5 arrested with it printed in a local
6 newspaper.
7 Q. Do you find yourself busy as an
8 attorney today?
9 A. Busy is relative. Do I work,
10 yes, I do. I am working.
11 Q. Thankfully?
12 A. Yes.
13 Q. How about in 2006; was your
14 income higher than it had been in 2004?
15 A. I don't know. I would have to
16 look at my tax documents.
17 MR. WALSH: Can you mark this?
18 (Whereupon, the aforementioned
19 photographs were marked as
20 Defendants' Exhibit A for
21 identification as of this date by the
22 Reporter.)
23 Q. Did there come a time when
24 someone went back to the scene and took
25 photographs?

82

1 BOTTARI
2 A. Yes.
3 Q. At any time that evening did
4 you tell the police not to touch you?
5 A. No.
6 Q. At any time, I guess it is
7 really that morning, did you tell the
8 police that you did not have to do what
9 they were asking you to do?
10 A. No.
11 Q. What was your mood like when
12 you got to the parking lot that evening;
13 were you upset about anything?
14 A. No.
15 Q. Were you intending to meet
16 anyone in that parking lot that night?
17 A. No.
18 Q. There came a time when the
19 charges against you were dismissed?
20 A. Yes.
21 Q. That was for failure to give
22 you a timely trial?
23 A. Yes.
24 Q. Do you know who the ADA was who
25 was handling your files?
1 BOTTARI
2 A. Most of them, yes.
3 Q. Do you have any out-of-pocket
4 expense for your --
5 A. There is a \$50 co-pay for
6 emergency room use.
7 Q. Any other out-of-pocket
8 expenses apart from your attorneys fees as
9 a result of this incident?
10 A. Not that I know of.
11 Q. Do you have an accountant?
12 A. I do.
13 Q. Does he do your taxes?
14 A. Yes.
15 Q. Who is that?
16 A. Joe Sperano, Joseph Sperano
17 (phonetic).
18 MR. WALSH: Off the record.
19 (Whereupon, an off-the-record
20 discussion was held.)
21 Q. Is it S-P-E-R-A-N-O?
22 A. Say that again.
23 Q. S-P-E-R-A-N-O?
24 A. Phonetically, yes.
25 Q. He does your taxes?

87

1 BOTTARI
2 A. No.
3 Q. Have you ever spoken to either
4 Sergeant Fischer or Officer Stephenson
5 since this incident?
6 A. I have spoken with Officer
7 Stephenson.
8 Q. On how many occasions?
9 A. A few occasions.
10 Q. Did you ever speak about this
11 incident with Officer Stephenson?
12 A. No.
13 Q. What were the sum and substance
14 of your conversations with Officer
15 Stephenson?
16 A. Just a greeting.
17 Q. You just saw him around town or
18 something?
19 A. I see him around town. Ardsley
20 has a 5K race once a year. He usually
21 patrols it and directs traffic. I recall
22 seeing him, running past him, running by
23 him and just saying hello to him.
24 Q. Were your hospital bills paid
25 by your health insurance carrier?

86

1 BOTTARI

2 Q. Do you know if you were struck
3 with someone's foot or fist or were you
4 struck with an object?

5 MR. WALSH: Or something else.
6 A. I am not really sure. I
7 thought that it was an elbow, but I am not
8 sure. I can't really say because I
9 couldn't see.

10 Q. Back in March of 2005, did you
11 have a practice of keeping your business
12 card case with you?

13 A. No.
14 Q. Now, was -- at Dobbs Ferry
15 Hospital, was Officer Stephenson present
16 with you?

17 A. Yes.
18 Q. Was he present during any of
19 the conversations you had with any of the
20 healthcare workers?

21 A. Yes.
22 Q. Did you tell him at the
23 hospital, him meaning Officer Stephenson,
24 that you had, had a fight with your wife
25 that night?

16

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1 BOTTARI

2 first interacted with Officer Stephenson to

3 the time that you were put down to the

4 ground, other than yourself and the police

5 officers, who, if anyone else, was around?

6 A. No one.

7 Q. The gentleman that you saw the

8 officers speaking with, what in the time

9 line of events, when was it that they were

10 speaking with him; before or after the

11 ambulance arrived?

12 A. Before the ambulance.

13 Q. Before or after you were put

14 down to the ground?

15 A. After I was put to the ground.

16 Q. Approximately how long in

17 minutes or seconds were you on the ground

18 before the officers went and had that

19 conversation with that gentleman?

20 A. It was a couple of minutes.

21 Q. Now, when you first interacted

22 with Officer Stephenson, did he ask you

23 your name?

24 A. I don't remember.

25 Q. Now, is the CVS parking --

68

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NOTARY PUBLIC

_____ day of _____, 20____.

Subscribed and sworn to before me

ANDREW BOTTARI

concluded.)

Examination of this Witness was

(Whereupon, at 2:00 p.m., the

much.

MR. WALSH: Thank you very

have anything else.

MR. FLAMM: I don't think I

A. No.

things to any of the healthcare providers?

Q. Did you say either of those

A. No.

the CVS lot?

to sleep in your car which was parked at

at Dobbs Ferry Hospital that you intended

Q. Did you tell Officer Stephenson

A. No.

No.

BOTTARI

92

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1 BOTTLARI

2 there is parking spaces in the lot painted

3 on the ground, correct?

4 A. Yes.

5 Q. Are they angled or

6 perpendicular to the sidewalk?

7 A. Angled.

8 Q. And you were parked

9 perpendicular to the sidewalk?

10 A. Correct.

11 Q. So you were not squarely

12 between the parking lines, correct?

13 A. Correct.

14 Q. Were you more than 10 feet from

15 the CVS front door? Was the rear of your

16 car more than 10 feet from the CVS door?

17 A. Yes.

18 Q. More than 20 feet?

19 A. I would say between 10 and 20

20 feet.

21 Q. Now, I think you had testified

22 earlier that while you were on the ground

23 you believe you were struck?

24 A. In the back of my head and

25 neck.

06

3:19
 connected [1]
 60:20
 consent [1]
 4:5
 consumed [2]
 21:3, 7
 continued [1]
 80:15
 controlling [1]
 4:18
 conversation [30]
 27:5, 10, 11, 16, 20; 29:23;
 30:17; 31:7, 22; 34:23; 36:2;
 9; 37:7; 49:2, 4, 7, 54; 16, 22;
 26; 55:3; 57:22; 69:10, 22;
 70:2, 3, 5, 13; 78:15, 24;
 89:19
 conversations [5]
 36:5; 55:16, 21; 86:14; 91:19
 converse [1]
 78:19
 conversing [1]
 36:22
 Cool [1]
 18:11
 cops [1]
 72:7
 copy [2]
 4:21; 78:15
 COUNTRY [1]
 93:4
 County [4]
 8:3; 9:2, 10; 10:9
 Couple [3]
 14:20; 78:3; 83:13
 couple [4]
 68:14; 78:13; 88:10; 89:20
 couple [1]
 3:15
 COURT [3]
 1:18; 2:5; 81:4
 court [8]
 3:20; 4:12; 70:21; 74:9, 12;
 80:19, 24; 81:14
 cover [1]
 72:25
 coverage [1]
 75:17
 CPLR [6]
 3:10, 14, 22; 4:15, 17, 18
 Criminal [1]
 71:9
 criminal [1]
 88:13
 cruiser [1]
 26:22
 cut [3]
 60:15, 19, 23
 cuffed [2]
 60:22, 24
 curious [1]
 72:14
 cut [1]

01/07/03 BOTTARI vs FISCHER

Look-See/Dr

hospital [2]
59:23; 60:14, 23, 24; 61:4,
14, 20; 62:8, 15, 18, 21; 63:3,
6, 9, 10, 13, 17, 20; 66:24;
91:23
hour [1]
63:16
hours [2]
13:12; 68:14
houses [6]
14:25; 15:3, 18; 16:4, 17.3,
11
hurt [1]
48:8
hurting [1]
48:6

- I -

Identification [2]
62:21; 83:7
II [1]
3:19
III [1]
3:20
Illegal [1]
21:9
Immediate [2]
9:13, 16
Immediately [1]
14:23
Immediately [5]
24:4, 37:2; 38:22; 40:22;
47:11
Impaired [1]
11:24
Impression [2]
57:24; 77:21
Improper [1]
78:14
Incident [29]
10:21; 13:2, 6, 20; 20:3; 60:7;
66:24; 73:5, 15; 75:11, 17;
75:25; 77:23; 78:17; 79:4, 11,
20; 80:4, 11, 16, 20, 22;
81:22; 83:14; 84:8, 16; 85:5,
11; 87:9
Include [1]
3:19
Includes [1]
81:8
Income [3]
81:21, 24; 82:14
Indicate [1]
24:19
Indicating [2]
43:16, 19
Inform [2]
51:6; 56:25
Information [1]
67:4
Informed [1]
70:20
Infraction [2]
11:23; 12:20
Injured [1]
63:19
Injures [4]
73:4; 83:25; 84:4, 7

Inquire [3]
61:12; 62:11; 71:22
Inside [3]
27:14, 17, 25
Instance [1]
65:18
Insurance [4]
61:6, 10, 13; 86:25
Intended [3]
80:21; 81:5; 92:4
Intending [1]
85:15
Intention [1]
81:3
Interacted [2]
89:2, 21
Interested [1]
93:17
Interview [1]
72:7
Interposed [1]
3:6
Interrogative [1]
31:24
Interrupt [1]
4:4
Intoxicated [1]
11:16
Involved [3]
11:10; 12:2, 5
Involving [1]
13:6
Irregularity [1]
3:14
Issue [1]
81:17
Issued [1]
69:3
Issues [1]
3:20
78:20

- J -

Jackpot [5]
18:14, 16, 18, 19, 21
Jail [1]
12:23
January [2]
1:12; 93:20
Job [1]
58:18
Joe [1]
87:16
JOHN [1]
2:12
Joseph [1]
87:16
Judge [1]
4:12
Judge [3]
10:9; 66:17; 81:16

- K -

Keep [4]
42:14; 76:8, 10, 11
Keeping [1]
11:23; 12:20
Injured [1]
63:19
Injures [4]
73:4; 83:25; 84:4, 7
Kevin [1]
77:13, 25; 78:12

Kids [2]
64:12; 72:18
Kings [1]
93:4
Knee [2]
8:3; 9:2, 10
Knee [2]
47:22; 48:2
Knees [1]
4:9

- L -
LLP, [2]
1:20; 2:8
Lane [1]
22:8
Last [3]
6:8; 9:16, 20; 10:4; 63:20;
72:7
Late [1]
72:15
Law [1]
3:5
Law [3]
7:17; 8:20, 22
Leave [5]
8:12; 15:17; 30:25; 34:4;
64:17, 20
Leading [5]
9:10; 15:3; 34:18; 62:2; 66:2
Leg [1]
73:11
Legal [1]
69:14
Legion [1]
17:14
Legs [1]
73:19
Length [1]
6:14
Let's [1]
17:8
Life [1]
20:20
Limitation [1]
9:19
Limited [1]
70:10
Line [2]
29:6; 46:8; 81:21
Line [1]
91:23
Media [1]
75:16
Medical [2]
73:4, 7
Medication [4]
21:10, 14; 63:8, 9
Medium [1]
20:10
Medium [1]
59:7
Meet [2]
21:2; 85:15
Mentioned [4]
77:12; 78:10; 79:20
Metallic [1]
42:5
Meu-Lie [1]
74:2
MICHAEL [2]

79:10
lot [37]
13:24, 25; 14:11, 14, 16, 22;
15:4, 10, 15, 21, 23; 16:15,
17, 20; 17:7, 12; 19:7, 9, 20;
24:20, 10, 25; 23:4, 19, 24;
25:14; 26:6; 27:24; 58:22, 23;
65:11; 78:19; 79:18; 85:12,
19; 90:2; 92:6
lower [1]
81:24
lying [3]
48:25; 49:9; 55:6, 15, 18, 21

- M -
M-O-R-I-A-R-T-Y [1]
77:14
M.D. [1]
54:8
main [1]
14:7
Mainly [1]
55:12
male [2]
58:3, 4
man [1]
76:21
March [3]
10:20; 13:2, 12, 15; 20:11;
91:10
mark [1]
82:17
marked [5]
22:5; 26:22, 23; 64:4;
62:19
MARSH [1]
93:7, 23
Marn [1]
1:21
marriage [2]
10:16; 93:16
married [3]
6:21, 22; 10:15
matter [3]
18:25; 75:5; 93:18
MATTHEW [2]
2:4, 6
mean [3]
29:6; 46:8; 81:21
meaning [1]
91:23
media [1]
75:16
medical [2]
73:4, 7
medication [4]
21:10, 14; 63:8, 9
Medium [1]
20:10
medium [1]
59:7
meet [2]
21:2; 85:15
mentioned [4]
77:12; 78:10; 79:20
metalloid [1]
42:5
Meu-Lie [1]
74:2
MICHAEL [2]

SSA
1:8; 2:9
Michelle [2]
negative [1]
6:7; 10:17
Midnight [1]
13:10
night [2]
13:5; 18:7
mle [4]
17:8; 65:8, 9; 70:24
mlse [1]
17:5
Miss-wise [1]
17:4
MIII [4]
17:9; 38:15, 20, 21
minute [2]
23:16; 28:7
minutes [1]
54:8
14:20; 18:4, 5, 32:17; 47:17;
89:17, 20
Miranda [2]
67:13, 18
model [1]
24:15
moment [2]
7:9; 86:21
Monotone [1]
32:4
mood [1]
95:11
mor [1]
89:21
Moriarty [5]
77:13, 22; 78:2, 12, 24
morning [3]
9:11; 61:24; 64:19, 25;
95:24; 99:24; 78:23; 85:7
moved [5]
6:14; 32:18; 34:9, 15, 16
moving [1]
34:14
MR [24]
6:7; 17:18; 18:24; 19:4;
25:16; 26:16, 19; 27:8; 36:8;
43:17; 45:6; 47:12; 68:8;
79:19; 82:17; 84:10; 87:18;
88:5, 9, 12, 20; 91:5; 92:11,
13
Mr [10]
5:14; 53:15, 19, 20, 24;
55:17; 74:22; 75:3; 77:22;
78:24; 79:16; 80:6, 7, 9;
86:21, 25
mug [1]
67:22
muslo [9]
19:15, 18, 20, 25; 20:7, 10,
25; 28:20; 30:20
myself [1]
73:11

- N -
name [15]
5:8; 6:6, 8; 7:8; 9:18; 10:4;
12:8; 27:2; 32:22; 35:17;
39:25; 44:8; 67:18; 68:23;
79:25; 88:17; 99:23
names [4]
6:10; 53:15; 78:7, 11
neck [2]

01/07/08 BOTTARI vs FISCHER

Look-See/Dr

49:24; 90:25
officer [28]
3:7; 14:15, 18; 16:6; 19:8;
23:5, 18, 23; 25:6, 14, 20;
28:14, 14, 21; 27:3; 32:11,
14, 20, 23; 48:21; 62:20;
65:25; 66:24; 57:25; 69:23
12:23; 34:2; 44:5; 45:10;
45:15; 47:5; 49:2, 6, 20;
62:23; 55:22; 57:10, 20;
59:19; 65:14; 68:16, 18; 69:5,
6, 18
offices [1]
11:7
Okey [3]
22:8; 68:3; 79:13
older [1]
59:4
Olivia [1]
61:7
nose [1]
38:19
NOTARY [1]
92:25
Notary [4]
1:22; 4:11; 5:4; 83:7
Note [2]
27:8; 36:8
noted [2]
3:7; 19:5
noticed [1]
23:5
number [2]
10:13; 79:23

- O -
object [1]
81:4
Objection [2]
25:18; 45:9
objection [4]
3:11, 17; 27:8; 36:8
Objections [2]
3:3
objections [4]
3:3, 7, 9, 10
observed [1]
36:18
Obstruction [1]
66:1
occasion [1]
10:20
occasions [5]
10:23; 20:10; 78:3; 88:8, 9
occurred [4]
55:18; 62:12; 71:23; 75:11
off-the-record [2]
39:12; 87:19
office [11]
7:10; 8:4; 8:2, 5, 11, 17; 10:7;
34:8; 72:23; 74:3; 88:3
27:4, 6, 12, 18, 23; 28:4, 6;
28:19; 30:9, 17; 31:21; 32:7,
13, 18; 33:3; 34:9, 24; 35:5,
17, 23; 38:18; 37:23; 39:15,
25, 40:10, 11, 24; 44:17, 21;
45:18; 64:8; 67:18; 68:23;
69:7, 11; 70:18; 88:4, 6, 11,
14; 89:2, 22; 91:15, 23, 92:3

12; 23:3, 19, 24; 25:14; 26:5;
56:21; 65:11; 85:12, 16;
89:25; 90:2, 12
Part [4]
44:25; 46:25; 47:19; 48:10
parties [4]
4:5, 17, 21; 93:15
Parts [1]
46:3
paris [3]
46:13, 16, 18, 20, 22; 47:21
party [1]
3:25
pass [1]
11:7
Patty [1]
22:9
pay [1]
23:6
patrols [1]
86:21
Paul [3]
6:12; 9:22; 10:8
pay [3]
71:19; 75:3
pedigree [1]
67:19
people [9]
21:2; 54:15; 77:6; 78:5;
79:18, 21
period [1]
26:8
permitted [1]
3:14
perpendicular [3]
21:19; 90:6, 9
Person [1]
80:3
person [16]
3:9, 21; 57:12, 13, 15, 19, 25;
58:7, 11, 14; 59:4, 5, 13, 16;
81:19; 85:14; 89:3
Personal [1]
74:25
personnel [9]
53:9; 54:23; 55:23; 58:8, 12,
19; 67:11; 81:3
persons [1]
3:15
phone [18]
18:11, 15; 41:4, 20; 42:16,
24; 43:21; 69:20, 25; 60:3, 6,
11; 61:22; 62:3, 5; 65:15, 17,
21; 78:18
phonetic [2]
9:22; 87:17
Phonetically [1]
87:24
photographs [5]
82:15; 85: 83:8, 12; 84:19
photos [5]
83:23, 25; 84:3, 6, 11
Piccolo [1]
80:15, 24; 81:5
Picking [1]
19:24; 21:18; 22:10; 38:18;
80:9; 92:5
Park [1]
55:23
parking [39]
13:24, 25; 14:11, 14, 16, 22;
15:4, 10, 15, 21, 23; 16:12,
17, 20; 17:7, 11; 19:7, 9, 19,
24; 20:8, 25; 22:4, 5, 9, 10,

12:10 plaintiff [1] 3:20 Plains [4] 12:1; 2:11; 7:12; 80:17 PLAINTIFF [1] 1:4 Plaintiff [2] 1:17; 2:4 Play [2] 19:22; 20:7 Played [2] 54:17; 12 Please [1] 5:8 please [4] 5:20; 10:11; 13:4; 49:13 pocket [1] 41:5 pockets [14] 40:14, 21; 41:9, 11, 14, 16, 20; 42:15, 17, 20, 24; 44:4, 9; 51:23 Point [11] 25:9, 10; 37:17; 38:5; 48:4; 51:1; 60:16; 61:25; 68:22; 81:4, 14 pointed [2] 38:20, 21 POLICE [1] 2:10 Police [5] 1:8; 10:21; 27:4, 6, 12 police [59] 11:9; 12:2, 10, 15; 13:6, 21; 14:15, 15; 16:5; 19:9; 21:4, 25; 23:3, 17; 23:25; 6; 14, 19; 26:5, 10, 14, 21, 22; 32:11; 33:25; 46:15; 55:21, 25; 56:24; 57:10, 20, 25; 59:19; 61:23; 62:2; 63:21, 25; 64:4, 12, 15, 18; 65:4, 6, 12, 14; 66:2; 67:3, 7, 11; 68:15, 19, 25; 69:12, 23, 24; 70:22; 85:4, 8; 89:4 portion [5] 39:8; 44:20; 46:5, 7, 14 possession [1] 21:17 post [2] 68:21, 23 Poughkeepsie [4] 11:2, 4, 8, 11 practically [1] 20:23 Practice [1] 3:5 practice [3] 7:18; 50:3; 91:11 prejudice [1] 3:21 prescribed [1] 21:14 prescriptions [1] 63:5 Present [1] 14:15 present [3] 14:15; 91:15, 18 presently [2] 63, 23	12:10 previously [1] 3:18 pretty [1] 46:1 previous [1] 1:16 printable [1] 68:5 printed [2] 68:4; 82:5 Prior [1] 68:2 prior [14] 7:24; 10:16, 20; 14:21, 23; 15:3; 20:11, 23; 24:9; 30:2; 32:19; 44:15; 50:23; 58:2 privilege [1] 41:5 proceed [1] 3:8 professional [1] 73:7 prosecutor [3] 50:25; 51:5, 17 provided [1] 3:22; 4:14, 17 providers [2] 65:13; 92:9 PUBLIC [1] 92:25 Public [4] 1:22; 4:11; 6:4; 83:7 published [1] 75:25 publishing [1] 78:8 pull [5] 23:15; 25:14; 35:5; 41:8; 45:9 pulled [10] 25:20, 24; 26:5; 28:22; 31:14, 18; 32:6; 34:5, 21; 65:11 pulling [1] 41:15 purpose [4] 4:4, 6; 15:14, 16 purposes [1] 4:14 pursuant [3] 1:16; 3:4, 10 quantifiable [1] 79:23 Quarter [1] 70:24 question [6] 3:20, 24; 4:6; 13:4; 49:13; 82:5 questioning [2] 3:12, 16 questions [7] 3:18; 5:18, 19; 32:3; 36:11; 67:10; 88:6 quick [1] 50:6 R-O-C-O-O [1] 74:21 race [1] 14:16	28:2; 3, 23, 25; 28:4, 8, 10, 14, 15, 19, 21, 23; 30:3, 9, 19, 23; 31:5, 11, 15; 32:6, 8, 19; 33:4, 15; 34:10, 14, 15, 16, 22, 25; 35:5, 6, 7, 8, 11, 15, 19, 25; 38:18, 19, 22; 39:8; 57:13; 63:24; 64:4; 84:22 Verbal [1] 42:21 VILLAGE [1] 2:10 Village [2] 1:8; 13:22 village [4] 15:22, 26; 53:22; 54:7 voice [3] 31:21, 25; 32:2 volunteer [1] 53:6 wait [1] 51:19 waited [2] 3:5; 4:17 walk [1] 65:3 walked [2] 64:21; 65:5 walking [5] 23:25; 24:5, 9 wallet [1] 41:5, 21; 42:16, 24; 43:20; 59:20, 24; 61:17, 18, 22; 62:2 WALBH [1] 2:8, 12; 5:7; 18:24; 26:19; 74:19; 82:17; 87:18; 88:5; 91:5; 92:13 Walah [1] 1:19 wanted [2] 41:7; 17 warning [2] 67:14, 17 Watching [1] 16:5 watching [1] 15:6 water [1] 43:24 wearing [7] 18:12, 13; 26:24; 57:5; 58:7, 11; 59:10 weather [1] 18:10 Wednesday [1] 13:18 week [2] 13:18; 74:7 Weekly [1] 78:2 weight [1] 39:18 west [1] 35:7 What's [1] 37:16 wheel [1] 35:10	40:8; 45:3; 81:11; 88:22 lighting [1] 19:22 lights [1] 4:17 13:17 17:9; 38:16, 20, 21 Riverview [1] 17:19 Road [5] 6:16; 17:9; 38:16, 20, 21 road [1] 17:19 Rocco [3] 74:18, 20 Rochele [1] 88:4 role [1] 7:2 room [2] 73:6; 87:6 route [5] 17:12, 16, 19, 22; 18:2 routes [2] 17:17, 24 Rule [3] 3:5; 14, 22 rule [2] 3:6, 15 RULES [2] 3:2; 4:2 Rules [1] 3:5 rules [1] 4:7 [ing] [2] 38:22 - S - S-P-E-R-A-N-O [2] 87:21, 23 safety [2] 40:18, 25 sales [1] 73:24 ant [2] 67:5; 69:5 saying [1] 68:23 scars [1] 73:14 scars [1] 3:10 school [3] 8:9, 20, 23 scraps [2] 73:10, 19 second [4] 32:14; 45:23; 51:16; 53:17 seconds [5] 26:7; 43:4, 6; 50:7; 89:17 section [1] 4:7 [tions] [1] 4:18 Security [1] 10:13 separated [1]	37:9 sequence [1] 74:24 33:2, 5, 6; 34:25; 35:18, 24; 36:3, 6, 10, 14, 16, 19; 37:2; 25; 39:9, 22, 23; 44:18; 45:2, 24; 64:5; 86:4 services [2] 74:14; 75:4 seven [1] 6:2 shirt [1] 17:7 Rocco [3] 74:18, 20 Rochele [1] 88:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21; 59:11, 21 62:22; 63:10; 61:15, 21 23, 25; 68:7, 8; 69:13; 71:13; 72:3; 75:15; 78:9, 13; 83:20; 22; 89:24 remove [1] 51:22 render [1] 44:3; 60:17, 19, 20, 24; 67:3 render [1] 52:24 rendered [1] 75:4 reopen [1] 33:22 Repeat [2] 13:4; 49:13 rephrase [1] 6:21 Reporter [1] 82:22 representing [1] 4:22 reputation [1] 77:22 request [1] 3:12 required [1] 74:9 revised [1] 16:15; 62:19; 69:18; 74:9 recess [2] 43:25; 88:23 recognized [1] 54:21 record [3] 4:6; 6:9; 39:11; 87:18; 93:12 referred [1] 74:22 Refusal [1] 3:17 refused [1] 4:21 refusing [1] 51:22 regarding [1] 34:13 related [1] 89:16 relation [3] 33:7; 35:4; 37:10; 38:12, 17; 39:21 relative [2] 21:18; 82:9 releaved [1] 56:4 relevance [1] 84:18 relief [1] 3:9 remain [2] 12:14; 47:15 remainder [1] 3:25 remember [57] 11:25; 12:6, 13, 17, 19, 16:2; 18:9; 19:16; 20:18; 22:3, 25; 23:21; 24:17; 25:8, 18; 26:12, 20; 29:24; 33:10, 17; 35:3; 55:2, 6, 24; 58:10, 21;
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